Waltham Police Department

"Protecting and Serving with Pride"

Keith D. MacPherson
Chief of Police

Form #52-6

To: **Chief Keith MacPherson**
From:
Subject: **Internal Affairs Division Investigation Recommendation**

Date: March 17, 2014

I respectfully submit the following recommendations with reference to:

Case# 2014-02

Complaint (s) **Allegation of rude behavior on a call for service.**

Officer (s) **Marrero**

☒ **Proper Conduct** ☐ **Improper Conduct** ☐ **Inadequate Policy**

☐ **Insufficient Evidence** ☒ **Unfounded Complaint**

Comments:

Investigation revealed proper conduct on the part of Officer Marrero, verified by an independent witness.

Reviewed _____ 3/17/14
Chief Keith D. MacPherson

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Waltham Police Department

Protecting and Serving with Pride

Keith D. MacPherson
Acting Chief of Police

FORM #52-1
(REVISED 02/13)

INTERNAL AFFAIRS UNIT
REPORT OF ALLEGED POLICE MISCONDUCT

DATE: 3/5/14

NAME OF COMPLAINANT/AGGRIEVED PERSON: [redacted]

ADDRESS: [redacted]

TELEPHONE NUMBER (HOME) [redacted] (WORK) [redacted]

BUSINESS/PLACE OF EMPLOYMENT: [redacted]

ADDRESS: [redacted]

OFFICER(S) COMPLAINED ABOUT:

1. NAME: Miguel Marrero RANK: Patrolman BADGE NO 7

DESCRIPTION: HEIGHT, WEIGHT, COLOR HAIR/EYES, GLASSES, MOUSTACHE, ETC.

2. NAME: _____ RANK: _____ BADGE NO _____

DESCRIPTION: HEIGHT, WEIGHT, COLOR HAIR/EYES, GLASSES, MOUSTACHE, ETC.

LOCATION OF INCIDENT: 411 Waverley Oaks Rd. Waltham, MA

DATE AND TIME OF INCIDENT: 11:00 am 3/5/14

NAME, ADDRESSES, TELEPHONE NUMBER OF WITNESSES, IF ANY:

[redacted]

(CONTINUED ON REVERSE SIDE)

NATURE OF COMPLAINT (DESCRIBE IN YOUR OWN WORDS EVERYTHING YOU CONSIDER NECESSARY FOR THE POLICE TO INVESITGATE YOUR COMPLAINT)

I, UPON MY OATH, HEREBY DEPOSE AND SAY AS FOLLOWS:

I had a completely verbal argument with a pair of women over a parking place outside the [redacted]. At one point I touched her car with mine. She called the police because she "felt threatened". When the police arrived one officer was extremely verbally abusive to me. At one point he said he could arrest me for "assault" and my daughter, who was present, would be raised without a father. I was not arrested and no citation was issued despite this hyperbolic threat.

I UNDERSTAND THAT I WILL BE INFORMED OF THE RESULT OF THE POLICE INVESTIGATION AND THE DISPOSITION OF MY COMPLAINT. I AM/AM NOT WILLING TO TESITFY AT ANY HEARING IN THIS MATTER. I HAVE READ THE ABOVE STATEMENT OF COMPLAINT AND IT IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 5 **DAY OF** March, 20 14

SIGNATURE OF COMPLAINT/AGGRIEVED PERSON: [redacted]

DATE AND TIME RECEIVED: March 5, 2014

SIGNATURE OF PERSON RECEIVING COMPLAINT: Sgt Michael Burke
(RANK)

NOTE: THE FORM IS TO BE SEALED IN A PLAIN ENVELOPE AND MARKED "*CONFIDENTIAL*" FOR THE ATTENTION OF THE CHIEF OF POLICE, WALTHAM POLICE DEPARTMENT. A COPY OF THIS FORM SHALL BE GIVEN TO THE COMPLAINTANT BY THE RECEIVING OFFICER.

Maher, Timothy

From: Maher, Timothy
Sent: Sunday, March 16, 2014 10:06 AM
To: Feeney, Donald
Subject: IA complaint filed by [redacted]s on March 5, 2014 Incident # 14006745 [redacted] Threats over a Parking Space - No report - CAD Notes indicate all parties satisfied
Attachments: 14005587-030514.wav; 411 Waverly Oaks Photo.jpg

Capt. Feeney,

In response to your request that I review the an **Internal Affairs complaint filed by a** [redacted] **on March 5, 2014** in which he wrote in his complaint that Officer Marrero was "verbally abusive" toward him during a police call for service at [redacted] (March 5, 2014 at 11:03 hours Incident # 14006745) I submit to you my findings here.

On March 11, 2014 I obtained the E911 recordings of this call - the recording of the caller / reporting part[redacted]s) calling the police, the recording of E911 center dispatching the call to Officer Marrero and Officer Mack as well as the recording of Officer Marrero clearing the call. The female called E911 center sounding emotional and at times crying with a small child / infant in the background crying at times requesting police assistance as she was at[redacted]s and felt threatened by a male in the parking lot that was calling her a "retard" and making her feel as though he was going to do something to her parked car.[redacted] further stated that this incident involved a parking issue between she and the male. Dispatch assigned Officer Marrero to this call with Officer Mack as his back up. In assigning the call dispatch advised Officer Marrero that the call involved a female being threatened in the parking lot by a male. Officer Marrero eventually cleared the call advising dispatch that this incident evolved over the parking dispute and that the matter was resolved and all parties were satisfied.

I spoke with Officer Marrero regarding this issue and he advised me that the issue involved, as stated above, an argument over a parking space. Officer Marrero stated that [redacted]s was clearly the louder and more aggressive on scene than the [redacted], Officer Marrero stated that [redacted] was parked in a HP spot on his arrival and had no HP tag, had at one point parked his car right up to the bumper of [redacted] car bumper to block her in and was less cooperative then [redacted]. Officer Marrero stated that he listened to both sides of the "story" from [redacted] and ensured that they were both able to park their cars safety and continue on with their days. Officer Marrero stated he advised [redacted]s that whereas he had purposely pulled his car up and let his car bumper make contact with the car bumper of [redacted] car along with his aggressive behavior this is the type of behavior that could have been looked at as an "assault" and that this type of behavior was unacceptable. Officer Marrero stated that both sides were satisfied with the resolution to the parking and problem and both sides went on their ways.

I spoke with Officer Mack whom was the back up her and he provided the same information as provided by Officer Marrero - in particular that [redacted] was clearly the aggressor here and less cooperative then [redacted]

I contacted [redacted] and spoke with her on the phone. [redacted] advised me that she was going to [redacted] with infant child and pulled into a parking space when she was confronted by [redacted] who began aggressively and loudly making comments to her that she had taken a parking space that he was just going to pull into to park. [redacted] stated that she explained to [redacted]s that she never saw him and would have never purposely taken his parking space. [redacted] stated that at one point [redacted]s moved his car and pulled right up to her car to block her in putting his car

bumper right up and making contact with her car bumper. [redacted] stated she took a photo of this with her IPhone. [redacted] forwarded me a photo of this which I have attached to this email. [redacted]s car is on left in the picture. [redacted] stated that [redacted] was loud and aggressive and called her a "retard". [redacted] eventually called E911 because she felt threatened and thought that [redacted] was going to do something to her car [redacted] advised me that Officer Marrero and Officer Mack were both professional and resolved the matter appropriately. [redacted] stated that she was satisfied with the police response here.

I then contacted [redacted] the male whom filed this Internal Affairs complaint. I would note that I had to call him 3 times over 2 days before I could reach him as he did not return either of my first two phone calls. I advised [redacted] that I was in receipt of the complaint he had filed and that I had reviewed the complaint and was now calling him to go over it with him and to determine whether this incident was handled professionally and to the standards expected by the Waltham Police Department. [redacted] stated that he had pulled into the parking lot that day with his wife and child and that [redacted] had taken his parking space. [redacted] stated that he approached [redacted] and told her to move her car as it was his space and that she would not do so. [redacted] admitted that he called [redacted] a "retard", that he "acted juvenile", " was rude" and that he was "acting silly". [redacted] also admitted that he was "pissed" during his encounter with [redacted] also admitted that he did in fact place his car bumper right up against [redacted] car bumper during this encounter. I advised [redacted] that I had reviewed the E911 tapes in which an emotional female with her infant in background reported to the police that she was being threatened by him and that this resulted in two police officer responding here for "threats". [redacted] stated that he didn't realize the extent to which this became an E911 call for threats and he seemed to change his tone saying he didn't just didn't like the way he was spoken to by Officer Marrero. [redacted] stated that Officer Marrero used the term "assault" to describe how some could have looked at this matter and that he said his in front of his wife. I advised [redacted] that Officer Marrero was simply explaining the law to him at that time and in particular regarding his actions putting his car bumper up against [redacted]s car bumper. In speaking with [redacted] I noted that he had one concern that I believe partially lead him to file this report - [redacted] stated that he works at [redacted]s and that he "might" have to notify his employer about this incident due to the fact that he has a "security clearance" and that he had to report any incidents that may have an "adverse impact" on his employment - such as a police report. I advised [redacted] that a police report was never filed on this matter - that it resulted in a Police CAD not stating " parties advised". [redacted] seemed to be less concerned at this point and I also advised him that after reviewing his complaint, listening to all 911 recordings, interviewing 2 police officers and the other party involved that I felt that the call was handled appropriately and professionally by Officer Marrero that it met the standards that we ask of our officers. [redacted] stated that he accepted this and was fine with my findings. I advised [redacted]s to certainly keep my name and phone number and that he could call me with any questions during which [redacted] replied that he was satisfied and all set at this point.

Prior to contacting [redacted] I did check them both with Waltham Police In House records, COPLINK, Criminal Record checks and Driver License checks - I did not find anything worth noting in this report.

Attached to this email are the E911 recordings and the photo of car bumpers that was provided to me by [redacted]. I will also provide you with a file containing the IA complaint, CAD notes from call and a CD of E911 recording.

Respectfully Submitted,
Sgt. Tim Maher
Sgt. Tim Maher

March 16, 2014

WALTHAM POLICE DEPT.
WALTHAM, MA

CAD Incident Report #14006745

Incident Information			
Incident #		**Incident Date**	**Call Taker**
14006745		03/05/2014 11:03:55	khoyt
Incident Type		**Description**	**Priority**
751 THREATS		OUTSIDE	3
Ems Level	**Alarm Level**	**Modified By**	**Modified Date**
		amele	03/05/2014 12:18:10

Event Information			
Municipality		**Business Name**	
1 WALTHAM		[redacted]	
Fire Box		**RA**	
4312		393	
Correct Location			
[redacted]			
Street #	**Street Name**	**Apartment #**	**Cross Street**
[redacted]	W[redacted]D		
Near	**Landmarks**	**Additional**	
PARKVIEW RD to UPTON RD	OFFICE BLDG - BLDG #1 ,2 OR 3		

Reporting Person		
RP Name	**RP Phone**	**How Received**
[redacted]	[redacted]	
RP Address	**Closed By**	**Date Closed**
	ebourgeois	03/05/2014 11:26:54

Incidents

Agency Name	Incident Number
WAL-PD	14005587

Incident Types

Dispatch Class	Incident Type
AMBULANCE	
FIRE/RESCUE	
POLICE	THREATS

Note(s)

Note Type	Entered By	User ID
CALL-TKR	03/05/2014 11:05:03	khoyt
Narrative Description		
arguiong over parking spave. male tjreatening female rp		

Note Type	Entered By	User ID
PAST INC	03/05/2014 11:05:08	auto
Narrative Description		
THERE ARE 115 PAST INCIDENTS AT 411 WAVERLEY OAKS		

Note Type	Entered By	User ID
INFO	03/05/2014 11:27:05	ebourgeois
Narrative Description		
441 parties advised		

Note Type	Entered By	User ID
CALL-TKR	03/05/2014 12:18:09	amele
Narrative Description		
a		

Officers and Units

CAD Units			
Agency Name	Unit ID	Personnel Id	Officer Name
WAL-PD	441	6930	MARRERO, M
WAL-PD	456	9912	MACK,S

Unit Statuses

CAD Units					
Unit ID	Status	Date/Time	Avail?	Location	Disp ID
456	RESP	11:06:25	N		ebourgeois
441	RESP	11:06:25	N		ebourgeois
456	ONLOC	11:13:13	N		ebourgeois
441	CLEAR	11:26:53	Y		ebourgeois
456	CLEAR	11:26:54	Y		ebourgeois

Dispositions

Dispositions				
Type	Disposition	Incident Report?	Accident Report?	Due By

POLICE	(1) SERVICED			MARRERO, M